

ILLINOIS RACING BOARD

ADA HANDBOOK



REASONABLE ACCOMMODATION POLICY

10/26/2009

I. INTRODUCTION

The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA) prohibits discrimination against a qualified individual with a disability in regard to job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training; and other terms, conditions, and privileges of employment (Section 102(a)).

An employer must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity has demonstrated that the accommodation would impose an undue hardship on the operation of the business of such covered entity (Section 102(b)(5)A). However, each individual is responsible for initiating the request for reasonable accommodation, if such individual believes such accommodation is required to enable him/her to perform the essential functions of the job.

The policy and procedures set forth herein are intended to meet the requirements of the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as well as the ADA.

II. POLICY

In accordance with the law and regulations, it is the policy of the Illinois Racing Board Reasonable Accommodation Committee (RAC):

- To inform employees and applicants about the Racing Board's policies and of the right to reasonable accommodations; and
- To provide any and all such reasonable accommodations in the most cost-effective manner available unless it would impose an "undue hardship."

NOTE: This policy is intended to comply with the applicable laws and is **not** intended to create any legal or contractual rights or obligations. For the purpose of this policy, the term "employee" shall include "applicants" and "prospective employees."

A. PURPOSE

The purpose of the Reasonable Accommodation Committee (RAC) is to effectively implement this policy.

B. MEMBERS

- Equal Employment Opportunity Officer, who shall serve as the chairperson;
- Area Manager or Director (from the same program area - field or main office - as the person requesting the reasonable accommodation);
- AFSCME representative;
- An employee with a disability (appointed by the Director); and
- Representative from the Legal Department.

C. DUTIES

1. The RAC provides technical assistance to Racing Board employees on technology, the ADA Title V of the Rehabilitation ACT, accessibility standards and employee relations as it relates to requests or potential requests.
2. The RAC will maintain documentation regarding RAC requests in order to :
 - Provide appropriate budget information and projected cost analysis for future budget cycles;
 - Lend consistency to the system of the provision of accommodations and ensure nondiscrimination in the treatment of employees;
 - Ensure that requests are processed, and approved accommodations provided in a timely manner; and
 - Provide reports on employee accommodations and costs to regulatory agencies.)
3. The RAC shall provide quarterly reports, including the above documentation, to the Director for his/her information/action. All reports shall be developed in a manner which protects the confidentiality of the employee.

IV. Reasonable Accommodation

- A. Reasonable accommodation means making modifications or adjustments to a job application process and the work environment that enables qualified applicants or employees to be considered for the position, to perform the essential functions of a position, and to enjoy equal benefits and privileges of employment. ADA regulations: 29 C.F.R. 1630.2(0)(1)
- B. Reasonable Accommodation may include, but is not limited to:
- Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.
 - Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, training materials or policies; the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities. Section 101(9) of the ADA.
- C. The determination of which accommodation is appropriate in a particular situation will be made on a case by case basis and involve the employer and employee in a flexible, interactive process whereby the employee identifies the precise limitations imposed by the disability and, along with the employer, explores potential accommodations that would overcome those limitations.

Note: The ADA permits employers to choose the accommodation which is lowest in cost if such accommodation provides a similar result as a more costly accommodation.

- D. Reasonable accommodation may be categorized in the following manner:
- Restructuring/modifications accommodations include, but are not limited to: job restructuring by removal of non-essential tasks, job modifications, rearrangement of office furniture, removal of desk

drawers, flexible time to allow for transportation and or medical schedules, etc.;

- Technological/accessibility accommodations include, but are not limited to: dictating machines, voice-activated equipment, push button telephones, opticons, Telecommunication Devices for the deaf (TDD's), hand controls for dictating devices, speaker-phones, telephone amplifiers, typewriters, Braille typewriters, orthopedic desk chairs, and other adaptive office furniture, looping systems, etc., as well as architectural modifications. Some types of accommodations need not be provided on an individual basis if available at the work site and if use by two or more individuals will not impede job performance; and
- Assistive care accommodations include the utilization of additional persons such as readers, interpreters, etc., who specifically assist an individual in performing the essential duties of the job.

V. UNDUE HARDSHIP

- A.** “Undue hardship” means significant difficulty or expense in, or resulting from, the provision of the accommodation. It refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business or the agency.
- B.** Whether an accommodation will impose an undue hardship must be analyzed on a case by case basis. Factors to be considered in determining whether an accommodation would impose an undue hardship on the Racing Board may include, but are not limited to: (i) the nature and net cost of the accommodation needed, (ii) the overall appropriations of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility and the effect on expenses and resources; (iii) the overall appropriation of the Racing Board with respect to the number of employees and the number, type, and location of its facilities; (iv) the type of operation or operations of the Racing Board, including the

composition, structure and functions of the workforce of such agency, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the Racing Board; and (v) the impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to be able to perform their duties and the impact on the facility's ability to conduct business.

- C. A requested accommodation may be denied if it is unduly disruptive to other employees or to the functioning of the business of the agency. To demonstrate that the accommodation would be unduly disruptive, the disruption must result from the provision of the accommodation, not from the fears or prejudices of other employees toward the individual's disability. The terms of a collective bargaining agreement may be relevant.

VI. PROCEDURE FOR PROCESSING REQUESTS FOR A REASONABLE ACCOMMODATION.

- A. The determination of reasonable accommodation for qualified employees who require such to overcome a physical or mental impairment in performance of job duties must be conducted at the request and with the consultation of the employee.
 - 1. A person with a disability may be qualified for a job in question if the person satisfies the requisite skills, experience, education and other job related requirements of the employment position, as set forth in standardized Department of Central Management Services (CMS) requirements, and with or without reasonable accommodation can perform the essential functions of the job.
 - 2. Essential job functions vary with individual job descriptions and would include those physical, mental and inter-personal activities necessary to achieve the anticipated job performance effectively.
 - 3. A determination as to a reasonable accommodation for one person will not be treated as a precedent for another person.

- B.** The employee must request any and all reasonable accommodations on an **RPS-11 REASONABLE ACCOMMODATION REQUEST FORM (IL 492-3197)**. The employee is responsible for adequately responding to all questions as applicable on the form. Once completed, the form shall be transmitted by the employee to the immediate supervisor and the EEO Officer/ADA Coordinator; or by the prospective employee to the interviewing supervisor.
1. If additional information becomes available, the employee should submit it in writing to the immediate supervisor for transmittal to the RAC.
 2. Technical assistance is available to the employee and supervisor(s) from the Racing Board's EEO Officer/ADA Coordinator.
- C.** The immediate supervisor or interviewing supervisor shall make a recommendation to the EEO Officer/ADA Coordinator, in writing, regarding the employee's request, within five (5) working days of receipt.
- D.** The EEO Officer, who is the Chairperson of the RAC, shall review the supervisor's recommendation and make a recommendation to the RAC within five (5) working days of receipt of the supervisor's recommendation, and shall convene a meeting of the RAC within ten (10) working days of receipt of the supervisor's recommendation.
- E.** Unless the appropriate reasonable accommodation is so obvious to the Racing Board and/or the qualified individual with a disability, all reviewers and the committee will, using a problem solving approach:
1. Analyze the particular job involved and determine its purpose and essential functions;
 2. Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;
 3. In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness

each would have in enabling the individual to perform the essential functions of the positions; and

4. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the Racing Board.
- F.** All reviewers shall consider the request based on the following criteria: 1) the relationship between the accommodation and the essential job functions, 2) necessity, 3) cost effectiveness, 4) undue hardship, and 5) compatibility with existing equipment (where applicable).
- G.** Within five (5) working days, the RAC will report its recommendations to the Executive Director. If further information is required to make a recommendation, the employee shall be given thirty (30) days to provide the additional information and the RAC will be given ten (10) working days to review the additional information.
- H.** Within (5) five working days of receipt of the RAC's recommendation, the Executive Director will make the final decision. A copy of the Executive Director's decision and the RAC's recommendation will be sent to the RAC to the appropriate Area Manager/Director, who will coordinate the implementation of the approved request with appropriate staff. A copy of the Executive Director's decision and the RAC's recommendation will also be sent to the employee by the RAC within five (5) working days of receipt of the Executive Director's decision.
- I.** Provided that appropriate medical documentation has been submitted, the EEO Officer/ADA Coordinator shall inform the employee in writing of the agency's decision within thirty (30) days of receipt of the completed request form, with a copy to the supervisor.
- J.** The time limits provided in this section may be extended up to 30 days if circumstances warrant; e.g., absence of a person needed to make determination, additional information is required, etc.

VII. RECONSIDERATION

If the employee wishes to ask the Executive Director to reconsider a decision on a Reasonable Accommodation request, the request shall be addressed to the Executive Director within ten (10) working days of notification of the decision. The request shall include the suggestion for a reasonable accommodation.

The Executive Director shall make a decision, and the employee shall be notified within ten (10) working days of receipt of the request. The decision of the Executive Director constitutes the final administrative action of the Racing Board on the request.

VIII. IMPLEMENTATION

A. When implementing the approved request, the appropriate Area Manager/Director shall:

1. if the requested accommodation is within the restructuring or modification category, modify/restructure the job with assistance from the Racing Board's personnel liaison. When the supervisor, personnel liaison, the appropriate Manager/Director, and employee are all in agreement, the supervisor shall provide the accommodation; or
2. if the requested accommodation is of a technological/accessibility or assistive care nature, the appropriate Manager/Director will coordinate the purchase of equipment or devices.

B. Additional Procedures

1. For accommodations which require a new professional and artistic contract, the appropriate Manager/Director shall provide the following to the Contract Coordinator (5-114) at least thirty (30) working days prior to the effective date of the contract:
 - a. **Request for Contract Information on Assistive Care Accommodation** form (IL 488-02203); and
 - b. a copy of the approved **Employee Request for Reasonable Accommodation** (IL 492-3197).

2. For renewal of a contract, the appropriate Manager/Director shall provide only form IL 488-02203 to the Contract Coordinator at least thirty (30) working days prior to the expiration of the contract for services provided to the employee.
 - a. Delays in providing this information to the Contract Coordinator will result in an interruption of assistive services provided to the employee.
 - b. Any changes involving the vendor should be relayed to the Contract Coordinator by the employee's immediate supervisor within five (5) working days.
 - c. No contract or renewal of a contract is effective until it is signed by the Racing Board's Executive Director, or his designated assignee.
3. For all technological/accessibility accommodations requiring building/equipment modifications or purchase of equipment, the appropriate Manager/Director shall contact or coordinate contact with the Facilities Manager and the Secretary of State (when appropriate) who will ensure the accommodation is provided and is in compliance with state purchasing rules and accessibility standards.

IX. PROCEDURES FOR DETERMINATION AND PROCUREMENT OF SPECIFIC SERVICES

A. Interpreter Services

1. Duties
 - a. In situations where other alternative accommodations (e.g., job restructuring, providing a telephone device for the deaf) are insufficient to allow the employee to perform essential job functions, the employee may request the services of a qualified sign language interpreter as a reasonable accommodation.

- b. The duties of a sign language interpreter may include the provision of sign language interpretation for office activities and meetings, conferences and training sessions, and telephone communications. The employee's immediate supervisor is responsible for the determination of work relatedness.
- c. The provision of sign language interpretation to and from the work site and during meals or non-work related activities is not the responsibility of the Racing Board. Payment of these activities is the responsibility of the employee.

2. PROCUREMENT

- a. The Racing Board will utilize established support staff positions which can be modified to provide necessary effective communication through sign language interpretation in the office setting. (Existing support staff job descriptions may include interpreting services under the requirements of effective communication or interpersonal relationships.)
- b. In situations where existing support staff positions cannot be modified to include interpreting services because of frequency of need - such as training or activities outside the office setting - the Racing Board may provide the necessary services on a part-time contractual or voucher basis for both in-office and field situations. Prior to contracting with an interpreter, the Racing Board shall inquire as to whether the individual is a qualified interpreter. This inquiry will necessitate an approximate determination of the amount of interpreting required by the employee and the supervisor.

B. READER SERVICES

Numerous technological advancements have made possible the development of devices designed to allow visually impaired persons the benefit of written communications. The Opticon, the Kurzweil Reader, Braille printers and typewriters, tape recording devices and reading aids are examples of these accommodations. Reader services include the reading of work-related materials to allow the employee to perform essential job functions.

Where existing staff support positions can be modified to provide the necessary reader services, the Racing Board should use these established positions. This duty is within the purview of the job specification of most clerical support positions and may be added to an individual job description.

X. PROCEDURES FOR REASONABLE ACCOMMODATION EXPENDITURES

Procurement and billing/vouchering will be processed in accordance with currently established Racing Board policies/procedures.